

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
BILLINGS DIVISION

**FILED**

FEB 12 2018

Clerk, U S District Court  
District Of Montana  
Billings

UNITED STATES OF AMERICA,

Plaintiff/Respondent,

vs.

CHRISTOPHER KYLE SHERROD,

Defendant/Movant.

Cause No. CR 13-58-BLG-SPW

ORDER RECHARACTERIZING  
AND DISMISSING FOURTH RULE  
60 MOTION AND DENYING  
CERTIFICATE OF  
APPEALABILITY

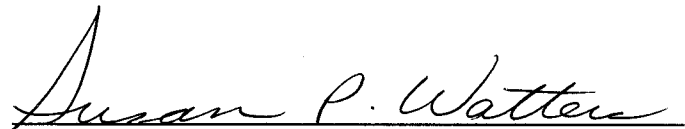
Defendant Sherrod has filed another motion under Federal Rule of Civil Procedure 60, asking the Court to entertain either additional claims for relief against the criminal judgment or unsupported claims for relief against the civil judgment. Sherrod again asserts that the *criminal* judgment was obtained by “fraud on the Court,” in the form of misrepresentations of fact by the prosecution, and that the *civil* judgment denying him relief under 28 U.S.C. § 2255 was marred by failure to detect the same fraud. *See* Mot. to Reconsider (Doc. 87) at 2; *see also* Order (Doc. 86) at 2. For the same reasons explained in the previous Order (Doc. 86), the current motion to reconsider and a certificate of appealability are denied.

The clerk has processed the notice of appeal (Doc. 88) Sherrod filed along with his motion to reconsider. Sherrod is advised, however, that his conditional notice of appeal might not be valid. *See* Fed. R. App. P. 3(c).

Accordingly, IT IS HEREBY ORDERED:

1. Sherrod's fourth motion under Fed. R. Civ. P. 60 (Doc. 87) is RECHARACTERIZED as a motion under 28 U.S.C. § 2255.
2. The clerk shall open a civil file for administrative purposes only.
3. So recharacterized, Sherrod's motion is DISMISSED for lack of jurisdiction as an unauthorized second or successive motion under 28 U.S.C. § 2255. The clerk shall close the civil file by entering a judgment of dismissal.
4. A certificate of appealability is DENIED. The clerk shall immediately process the appeal if Sherrod files a notice of appeal.

DATED this 12<sup>th</sup> day of February, 2018.

  
Susan P. Watters  
United States District Court